

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KENNETH CRAIG QUASTER,	:	
	:	
Petitioner,	:	
	:	
v.	:	CIVIL ACTION NO. 3:07-CV-0414
	:	(JUDGE KOSIK)
WARDEN MARDI I. VINCENT,	:	
et al.,	:	
	:	
Respondents.	:	
	:	

**MEMORANDUM AND ORDER**

AND NOW, THIS 30<sup>th</sup> DAY OF MARCH, 2007, IT APPEARING TO THE COURT THAT:

- [1] On March 5, 2007, Kenneth Craig Quaster ("Petitioner") filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254;
- [2] Petitioner filed a previous habeas corpus petition (06-CV-1251) on June 23, 2006, (hereinafter "June 2006 petition") in which he raised several claims, some of which were exhausted in state court and some of which were not;
- [3] Petitioner then filed a motion to stay consideration of the June 2006 petition pending exhaustion of all claims in state court;
- [4] the Magistrate Judge filed a Report and Recommendation on January 18, 2007, suggesting that the June 2006 petition be dismissed without prejudice;
- [5] Petitioner filed objections to the Report and Recommendation seeking to withdrawal the unexhausted claims and proceed with the exhausted

claims in the June 2006 petition;

[6] Petitioner then filed the instant petition for writ of habeas corpus on March 5, 2007, asserting claims identical to the exhausted claims set forth in the initial petition;

[7] by order of March 13, 2007, this court adopted the Magistrate Judge's Report and Recommendation to the extent that the motion to stay be denied, but remanded the matter to the Magistrate Judge for further proceedings on the unexhausted claims within the June 2006 petition;

[8] on March 19, 2007, Magistrate Judge Malachy E. Mannion issued a Report and Recommendation suggesting that we dismiss the instant habeas petition;

[9] neither Petitioner, nor the respondents filed objections to the Report and Recommendation.

IT FURTHER APPEARING THAT:

[10] If no objections are filed to a Magistrate Judge's Report and Recommendation, the Court need not conduct a *de novo* review of the plaintiff's claims. 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53, 106 S.Ct. 466 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3<sup>rd</sup> Cir. 1987);

[11] having examined the Magistrate Judge's Report and Recommendation, we agree with his recommendation to dismiss the instant petition for writ of habeas corpus;

[12] we concur with the Magistrate Judge's analysis of the issues raised in the habeas petition and find the Magistrate Judge's review of the record to be comprehensive;

[13] specifically, we agree with the conclusion that the claims in the instant petition are duplicative of the exhausted claims in the June 2006 petition that we remanded to the Magistrate Judge on March 13, 2007;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

[1] the Report and Recommendation of Magistrate Judge Malachy E. Mannion dated March 19, 2007, (Doc. 3) is **adopted**;

[2] the petition for writ of habeas corpus (Doc. 1) filed on March 5, 2007, is **dismissed**;

[3] the Clerk of Court is directed to close this case, and forward a copy of this Memorandum and Order to the Magistrate Judge.

*s/Edwin M. Kosik*  
United States District Judge